

### **Remarks/Arguments**

Applicants have received and carefully reviewed the Office Action of the Examiner mailed January 10, 2008. Currently, claims 31-37, 39, and 41-57 remain pending. Claims 31-37, 39, and 41-57 have been rejected. Favorable consideration of the following remarks is respectfully requested.

### **Claim Rejections – 35 USC § 102**

Claims 31, 32, 35-37, 39, 43, 44, 47, 48, 51, 52, and 55 stand rejected under 35 USC §102(b) as anticipated by Grayhack et al. (USPN 4,611,594), hereinafter Grayhack. After careful review, Applicant must respectfully traverse this rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Additionally, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (MPEP § 2131). Accordingly, Grayhack must teach each and every element in as complete detail as is contained in claims 31, 32, 35-37, 39, 43, 44, 47, 48, 51, 52, and 55, as is required for anticipation.

Applicant respectfully asserts that Grayhack fails to teach each and every element of claims 31, 43, and 51. Nowhere does Grayhack appear to teach, “the proximal end of the retrieval adapter is configured to engage a distal end of an interventional device within the vessel”, as recited in claims 31 and 43 or “the proximal end of the retrieval adapter being tapered to facilitate engagement with a distal end of the interventional device” as recited in claim 51.

Instead, Grayhack appears to disclose, in the embodiment of Figs. 1, 7, 8, and 19 cited by the Examiner, “In each embodiment a suitable grasping device is utilized to locate and grasp a stone (calculus) in a body passage or organ, such grasping device being used in combination with a catheter having an expandable and contractable distal end portion capable of receiving and substantially enclosing the stone.” (See the Abstract.) The retrieval of a stone basket, grasping device, or cage 16 of Figs. 1 and 7, as

well as spaced struts 351 of Fig. 19, fail to disclose a device for retrieving “a vascular filter disposed on a guidewire” nor does the outer catheter 12 of Grayhack appear to have a proximal end configured to engage a distal end of an interventional device within the vessel. In as much as Grayhack does not appear to disclose each and every element of claims 31, 43, and 51, Applicants respectfully request that the rejections be withdrawn. Additionally, for similar reasons, as well as others, claims 32, 35-37, 39, 44, 47, 48, 52, and 55, which depend from claims 31, 43, and 51 respectively and include significant additional limitations, are believed to be not anticipated by Grayhack and Applicants respectfully request withdrawal of the rejections.

#### **Claim Rejections – 35 USC § 103**

Claims 31, 32, 35-37, and 39 were rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel et al. (U.S. Patent No. 6,171,327), hereinafter Daniel, in view of Bagaosian et al. (U.S. Patent No. 6,152,909), hereinafter Bagaosian. After careful review, Applicant must respectfully traverse this rejection.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). (MPEP § 2143.03). Daniel appears to disclose both delivery and retrieval housings for an intravascular filter. The Examiner has characterized element (18) of Daniel as being analogous to the retrieval adapter of the pending application while apparently relying instead upon element 440 of Figure 13 and/or element 340 of Figure 12 for the pertinent features. The Examiner’s attention is drawn to the paragraph found at col. 6. lines 47-51 of Daniel which characterizes the housing configurations of Figs. 9-16 as described in the context of delivery catheters while noting that one or more of the housing configurations *may* be suitable for use as a retrieval catheter, but without identifying which housings might be suitable. Figures 12 and 13 both are characterized as “yet another alternate embodiment of the delivery housing” in the BRIEF DESCRIPTION OF THE DRAWINGS. Attention is further drawn to the text of Daniel at column 7, lines 9-14 and 15-25 which refer to Figures 12 and 13 respectively. The housing of Figure 12 is described exclusively as having a profile for advancing housing

(318) and filter (21) to a treatment site. Similarly, the housing of Figure 13 are described as follows “Once filter 21 and housing 418 are advanced distally of a treatment site, housing 418 can be withdrawn proximally from filter 21. As housing 418 is withdrawn proximally, elastomeric portion 440 stretches transversely such that filter 21 can exit distally from an opening at distal end 420.” There appears to be no indication that either Fig. 12 or Fig. 13 relates to a *retrieval* housing. In particular, there does not appear to be a disclosure within Daniel of a retrieval adapter “wherein the proximal end of the retrieval adapter is configured to engage the distal end of an interventional device within the vessel”. Bagaosian was provided to supply an oblique tip to a catheter of Daniel, however as discussed above, Daniel, with or without an oblique tip of Bagaosian, fails to disclose all the features of the pending claims and Applicants respectfully request that the rejection of claim 31 as well as the rejections of claims 32, 35-37, and 39, which depend from claim 31 and add significant additional limitations thereto, be withdrawn.

Claims 33 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel et al. (U.S. Patent No. 6,171,327), hereinafter Daniel, in view of Bagaosian et al. (U.S. Patent No. 6,152,909), hereinafter Bagaosian, as applied to claim 31 above and in further view of Ferrera (U.S. Patent No. 6,240,231). Similarly, claims 33, 34, 45, 46, 53, and 54 were rejected as unpatentable over Grayhack in view of Ferrera. After careful review, Applicant must respectfully traverse this rejection.

Ferrera is said to disclose a radiopaque marker in the form of a coil said to be missing from Daniel, Bagaosian, and Grayhack. As discussed above, claims 33, 34, 45, 46, 53, and 54 depend from patentably distinct claims 31, 43, and 51 respectively. The radiopaque marker in the form of a coil of Ferrera does not appear to overcome the deficiencies of Daniel, Bagaosian, and Grayhack and the Applicants respectfully request that the rejections be withdrawn.

Claims 41-42, 49-50, and 56-57 have been canceled rendering their rejection moot.

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date:

March 31, 2009 Glenn M. Seager

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